

UPDATED INFORMATIVE DIGEST

Assembly Bill (AB) 1961, Chapter 109, Statutes of 2002 amended Health and Safety (H&S) Code section 1569.73 to allow for the acceptance of terminally ill persons already receiving hospice care into a Residential Care Facility for the Elderly (RCFE). AB 1166, Chapter 312, Statutes of 2003 affected both Adult Residential Facilities (ARFs) and RCFEs respectively by amending H&S Code sections 1507.3 and 1569.74 to accept a terminally ill person already receiving hospice care into an ARF and to allow licensees in both facility types to contact the hospice agency in lieu of calling 9-1-1 during an emergent situation for hospice terminally ill client/residents under certain conditions. These regulations also incorporate prohibited health conditions into the hospice care plan and hospice waiver. Similarly, the ARF regulations incorporate restricted and prohibited health conditions into the hospice care plan and the hospice waiver.

The benefits of the regulatory action to the health and welfare of terminally ill individuals already receiving hospice care into a RCFE will provide the option for RCFE licensees to notify a terminally ill resident's hospice agency in lieu of calling 9-1-1 during a life threatening emergency related to the terminal illness for residents with an advance directive or request regarding resuscitative measures.

The California Department of Social Services (CDSS) considered any other possible related regulations and we find these are the only regulations dealing in this subject area (Hospice Terminally Ill, RCFE) and therefore CDSS finds these proposed regulations are compatible and consistent with the intent of the Legislature in adopting AB 1961 and AB 1166, as well as with existing state regulations.

Post-hearing changes

The regulations were noticed February 21, 2014. Two written and one oral testimony were received as a result of the public hearings and additional amendments were made to the regulations after further review; the following changes were made:

1. Section 87632(a)(4) - The Department agrees with testifier that this regulation is no longer needed based on the amendments made to Section 87632(a). The Department moves to delete Section 87632(a)(4).
2. Section 87632(d)(1) – The Department agrees with the testifier that it is unnecessary to have a prospective resident sign a written request before signing other documents related to the admission agreement. Therefore, the section is changed to read:

A written request shall be signed by each terminally ill resident or prospective resident upon admission, or by the resident's or prospective resident's health care surrogate decision maker to allow for his or her acceptance or retention in the facility while receiving hospice services.

3. Section 87632(d)(2) – The Department agrees with the testifier that the proposed order of the wording in this section is confusing and implies that the licensee must notify the Department when a resident started on hospice, even if outside the facility. Therefore, the section is changed to read:

The licensee shall notify the Department in writing within five working days of the initiation of hospice care services ~~in the facility~~ for any terminally ill resident ~~accepted or retained in the facility~~ in the facility or within five working days of admitting a resident already receiving hospice care services. The notice shall include the resident's name and date of admission to the facility and the name and address of the hospice.

4. Require the licensee to notify the Department within five working days of admitting a resident already receiving hospice care services.
5. Replace reference to "request to forego resuscitative measures, an advance health care directive and/or a do-not-resuscitate" with "advance directives and/or requests regarding resuscitative measures" in order to allow for all legally permissible documents to be used by residents to make decisions about their medical care.
6. New Section 87632(a)(4) – Rephrase to be consistent with Sections 87632(a)(1)-(3), clarifying what the licensee is required to submit to the Department when applying for a hospice care waiver.